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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,755	02/05/2004	John Schlieff	385-102	5710
21091	7590	12/14/2004	EXAMINER	
JOHN H CROZIER 1934 HUNTINGTON TURNPIKE TRUMBULL, CT 06611			THOMPSON, TIMOTHY J	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/772,755

Applicant(s)

SCHLIEF, JOHN

Examiner

Timothy J Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,11-17 and 19 is/are rejected.
- 7) ☒ Claim(s) 2-10 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

12/2004

### **DETAILED ACTION**

The Election/Restriction in which the examiner called the attorney about is being withdrawn. All the original claims have been examined in this action.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 10-181750.

Regarding claim 1, JP 10-181750 discloses; a magnifier and said menu or the like(fig 2); and the magnifier being disposed in a pocket associated with said menu or the like(col 2, lines 29-39).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-14, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruchser(U.S. Patent No. 2,285,615) in view of Epstein(U.S. Patent No. 5,680,193).

Regarding claim 11, 12 Ruchser discloses; two temple pieces(fig 7, 32); pair of glasses being divided into upper and lower lenses(fig 4, 16, 17); the upper and lower lenses being of different optical strengths(col 2, lines 17-23); two nose pieces disposed generally centrally of said lenses and at distal edges thereof(fig 6 and col 2, lines 17-23). Ruchser does not disclose the upper and lower lenses are divided along an imaginary line generally disposed between said temple pieces. However, Epstein discloses the upper and lower lenses are divided along an imaginary line generally disposed between said temple pieces(fig 1, 18, 20 and col 2, lines 47-53). It would have been obvious to one skilled in the art at the time of the invention to use lenses that are divided between the upper and lower lenses are divided along an imaginary line generally disposed between said temple pieces as shown by Epstein, in the eyeglasses of Ruchser, since as shown by Epstein bi-focal lenses divided between the upper and lower lenses are divided along an imaginary line generally disposed between said temple pieces is commonly done so as to allow the user of the eyeglasses to shift the glasses so as to allow for seeing through either the top portion of the lens with a specific optical power or see through the lower portion of the lens with a different optical power.

Regarding claim 13, Rucher discloses the claimed invention except for one of said upper and lower lenses has a diopter strength of about 1.25 and another of the upper and lower lenses has a diopter strength of about 2.75 diopters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use upper and lower lenses has a diopter strength of about 1.25 and another of the upper and lower lenses has a diopter strength of about 2.75 diopters, since it has been held

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that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 14, Rucher discloses the upper and lower lenses are formed using standard eyeglass optics since the patent was filed in 1940 in which other techniques for forming bi-focals did not exist.

Regarding claim 17, Rucher discloses the two temple pieces are straight(fig 7, 32)

Regarding claim 19 Ruchser discloses the two temple pieces can be rotated 180 degrees(fig 7, 39).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruchser(U.S. Patent No. 2,285,615) in view of Epstein(U.S. Patent No. 5,680,193) as applied to claim 11 above, and further in view of Slack et al.(U.S. Patent No. 6,623,669).

Regarding claim 16, a modified Ruchser does not disclose the upper and lower lenses are formed using progressive optics. However, Slack et al. discloses upper and lower lenses are formed using progressive optics(col 1, lines 25-35) which are bi focal lenses formed with out lines. It would have been obvious to one skilled in the art at the

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time of the invention to form the lens using progressive optics as shown by Slack et al., with the eyeglass of Ruchser, since as shown by Slack et al. progressive optics are commonly used when forming bi-focals since it uses no lines.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruchser(U.S. Patent No. 2,285,615) in view of Epstein(U.S. Patent No. 5,680,193) as applied to claim 11 above, and further in view of Shirayanagi(U.S. Patent No. 4,950,057).

Regarding claim 15, a modified Ruchser does not disclose the upper and lower lenses are formed using a fresnel lens. However, Shirayanagi discloses the upper and lower lenses are formed using a fresnel lens(abstract). It would have been obvious to one skilled in the art at the time of the invention to form the lens using fresnel optics as shown by Shirayanagi, with the eyeglass of Ruchser, since as shown by Shirayanagi fresnel optics are commonly used when forming a lens which has two different focal lengths.

### ***Allowable Subject Matter***


Claims 2-10 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. With the allowable features being; two temple pieces have two ear catches defined at upper and lower edges of

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distal ends thereof; the pocket has an adhesive coated surface; the pocket has a tab extension with an adhesive coating; the tab extension can be bound into the menu.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Thompson whose telephone number is (571) 272-2342. If the examiner can not be reached his supervisor, Georgia Epps, can be reached on (571) 272-2328.

A handwritten signature in black ink that reads "Tim Thompson". The signature is written in a cursive, flowing style.

**TIMOTHY THOMPSON  
PRIMARY EXAMINER**